



ANDERSON CITY COURT

LOCAL TRIAL RULES

Revised March 3, 2004

Replaces Local Rules adopted August 15, 1989
STATE OF INDIANA

SS:
COUNTY OF MADISON

IN THE ANDERSON CITY COURT

2004 TERM

CAUSE NO. **48H02-0403-GO-001001**

ORDER

Pursuant to inherent rules of authority and the Indiana Rules of Court, Trial Rule 81, the Anderson City Court of Anderson, Madison County, State of Indiana, hereby adopts and promulgates the attached Local Rules of Court numbered one (1) through forty-one (41), inclusive.

The Clerk of the Court is directed to spread said rules of record in the Order Book of the Court, to provide same to the members of the Madison County Bar and, pursuant to Trial Rule 81, submit two (2) COPIES TO THE Indiana Supreme and Court of Appeals.

SO ORDERED this 3rd day of March, 2004.

[s] Donald R. Phillippe
DONALD R. PHILLIPPE, JUDGE
ANDERSON CITY COURT

Distribution:

RJO

File

All Members Madison County Bar

Indiana Supreme Court

Indiana Appellate Court

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ANDERSON CITY COURT ADMINISTRATIVE LOCAL TRIAL RULES

LOCAL RULE 1: Compliance with Indiana Trial Rules of Procedure and the Indiana Criminal Rules of Trial Procedure

The judge, from time to time, shall adopt local rules of procedure and such other business of court as is deemed necessary, proper, and advisable. The trial rules of procedure shall be the same as provided for in the Indiana Rules of Trial Procedure and of Criminal Procedure as duly adopted by the Indiana Supreme Court and as further provided by law. If any of these rules conflict with the Indiana Rules of Civil Procedure or the Indiana Trial Rules of Criminal Procedure, then the Indiana Trial Rules shall apply (as amended, added, or changed).

LOCAL RULE 2: City Clerk - Records

The Clerk of the Anderson City Court shall keep and maintain records in accordance with Indiana Law. In addition, the clerk shall enter records of the Court's criminal, civil, ordinance, and infraction proceedings and orders in the Record of Orders and Judgments as provided by law and/or Supreme Court Rules.

LOCAL RULE 3: Staff

The judge of the Anderson City Court shall appoint his office staff pursuant to statute. The court staff and members of the staff of the Anderson City Clerk who are assigned to the Court shall report to the Supervisor of Clerks of the Anderson City Court and/or the Court Administrator. The departments of City Court are as follows: Court Deputies (Clerks), Docketing, Probation, Security, Bailiff, and Court Administration. The clerk shall prepare and assist the Court in maintaining chronological case summaries (CCS), record of judgment and orders (RJO), and the calendar.

LOCAL RULE 4: Court Administration

The duly elected Judge of the Anderson City Court shall appoint a Court Administrator who shall have such duties and responsibilities as are assigned by said judge. Employees of the various departments shall be selected by the Court Administrator or Chief Probation Officer with the advice and consent of Judge.

LOCAL RULE 5: Court Reporter

A. Definitions: The following definitions shall apply under this local rule:

1. *Court Reporter*: the person specifically designated by the Court to perform the official court reporting services for the Court, including the preparation of transcript of proceedings;
2. *Equipment*: all physical items owned by the Court or other government entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording, storing, and transcribing electronic data.
3. *Work Space*: that portion of the court facilities dedicated to each court reporter including, but not limited to, actual space in the courtroom and any designated office space.
4. *Page*: the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rules of Appellate Procedure 7.2 (and as may be hereafter amended).
5. *Recording*: the electronic, mechanical, stenographic, or other recording made as required by Indiana Rule of Trial Procedure.
6. *Regular Hours*: those hours during which the court is regularly scheduled to work in any given workweek.
7. *Gap hours*: those hours worked in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
8. *Overtime hours*: those hours worked in excess of forty (40) hours per week.
9. *Work week*: a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
10. *Court*: the Anderson City Court. Court may also mean all of the courts in Madison County.

11. *City/County indigent transcript*: a transcript that is paid for from city funds and is for the use and benefit of a litigant who has been declared indigent by a Court.
12. *State indigent transcript*: a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a Court.
13. *Private transcript*: a transcript including, but not limited to a deposition transcript, that is paid for by a private party.
14. *Expedited transcript*: a transcript which is required to be completed in three (3) days or less.

B. Salaries and Per Page Fees: Court reporters shall be paid an annual salary for time spent working under the control, direction, and direct supervision of the Court during any regular work hours, gap hours, or overtime hours. The Court shall enter into an agreement with the court reporter which outlines the manner in which the court reporter is to be compensated for gap hours and overtime hours, i.e. monetary compensation or compensatory time off regular work hours.

The maximum per page fee a court reporter may charge for the preparation of a city court indigent transcript shall be \$3.50 per page plus \$1.00 per page for exhibits. However, the Court may authorize up to \$5.00 per page for expedited transcripts; the court reporter shall submit a claim directly to the city for the preparation of any city transcripts.

The maximum per page a court reporter may charge for the preparation of a state indigent transcript shall be \$3.50 per page plus \$1.00 per page for exhibits. However, the Court may authorize up to \$5.00 per page for expedited transcripts.

The maximum per page a court reporter may charge for the preparation of a private transcript shall be \$3.50 per page plus \$1.00 per page for exhibits. However, the Court may authorize up to \$5.00 per page for expedited transcripts.

A minimum fee up to \$35.00 per transcript is permissible (this minimum fee is for small transcripts and is not to be used in addition to the per page fee).

Only city/county or state indigent transcripts may be prepared during the regular working hours. No court reporter shall receive a per page rate or any additional compensation beyond the annual salary for transcript work performed during regular hours worked.

Each court reporter shall report, at least on an annual basis, all transcripts fees received for preparation of either city/county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

C. Private Practice: If a court reporter elects to engage in private practice through the recording of a deposition and/or preparation of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space, and supplies, and the Court agrees to the use of the court equipment for such purposes, the Court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

1. The reasonable market rate for the use of equipment, work space and supplies;
2. The method by which records are to be kept for the use of equipment, work space and supplies; and
3. The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

If a court reporter elects to engage in private practice through the recording of a deposition and/or preparation of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

LOCAL RULE 6: Service

Certificates of Service which are required by the trial rules shall set out with specificity the names (and addresses) of the lawyers and/or litigants who have been served. The generic and generalized language "served upon counsel of record" shall not be acceptable compliance with the trial rule.

The Court may effect notice by hand delivery, by regular United States Postal Service, or by depositing copies of such notice and/or CCS entry in the mail slot assigned to counsel and located in the offices of the Anderson City Court. As may be applicable, attorneys may utilize said court mail slots to facilitate "service" and note on such document that service was so effected.

For service by certified mail, the attorney shall provide a typed certified mail card and envelope for each party to be so served.

LOCAL RULE 7: Service - Law Enforcement

Service of a subpoena may be made upon a law enforcement officer by delivering the subpoena to the officer's place of employment. A copy of the subpoena shall be left with the official in charge of the department. It shall be the duty of the official to immediately deliver the subpoena to the officer being served. Service in this matter shall be deemed service on the officer.

LOCAL RULE 8: Subpoenas and Notice of Hearing

Except in an emergency, a subpoena or notice of hearing will **not be served** by the court bailiff unless the same has been filed no less than ten (10) working days prior to the scheduled hearing. All subpoenas shall state the time and date calculated to minimize unnecessary delay and inconvenience to prospective witnesses. In the event the address of the party to be subpoenaed is outside the Anderson city limits, driving directions must be provided.

A copy of every subpoena issued, by any party, shall be promptly filed with the Court, noted in the CCS, and the Clerk shall maintain said copy in the case flat file.

The failure to notify a subpoenaed witness that a case has been continued or settled may result in an assessment of mileage and costs against counsel.

LOCAL RULE 9: Subpoena Duces Tecum

See Indiana Rules of Civil Procedure or the Indiana Trial Rules of Criminal Procedure.

LOCAL RULE 10: Jury Panels - Jury Trials

A. Juror Questionnaires: Requests by attorneys for copies of juror questionnaires shall be made to the Clerk of this Court at least seven (7) working days prior to trial.

B. Costs: Whenever, by request of a party, a cause has been placed on the Court's calendar for trial by jury, and by reason thereof a jury is called for the trial of the cause, the cost of the jury shall be deemed to have accrued unless the case be disposed of on the calendar of this Court more than three (3) working days prior to the time for the calling of the same for trial, and the costs thereof may be assessed against the party responsible for any delay or *eleventh hour* agreement. If the delay/agreement was the joint responsibility of the parties, then such costs may be assessed equally between them.

[See Rule 15E - Continuances].

LOCAL RULE 11: Juries - Voir Dire

The Court will accept a maximum of ten (10) written questions from each party to be propounded by the Court.

A. Written Interrogatories: The Court will submit general questions by written interrogatories to prospective jurors; which questions and answers will be available for examination

by counsel prior to trial. Counsel shall not in their voir dire examination pose any question which has been covered by the written questionnaire and answers by the prospective juror. The Court will give counsel an opportunity to ask such additional questions as may be deemed necessary and proper and which were not covered by the written questionnaire.

B. Voir Dire Examination by the Court: If the Court conducts the voir dire examination, counsel desiring to cover any particular area may have the Court ask a question or may do the same upon counsel's voir dire examination of said jury. At the completion of the Court voir dire examination, counsel will be given an opportunity to question said jury; however, said voir dire examination by counsel shall be limited to thirty (30) minutes.

C. Voir Dire Examination by Counsel: Upon any trial, after Court voir dire examination of the prospective jury, the prosecutor or plaintiff shall first examine said jurors, whereupon the defendant shall examine said jurors, and if no change has been made in the jury composition, it shall be sworn to try the case. Either party may reexamine the jury, or any member thereof, as often as there has been any change in its composition or as often as new facts have developed. A preemptory challenge may be made at any time, and a challenge for cause shall be made whenever cause is discovered. This rule may be modified in the sound discretion of the Court.

ANDERSON CITY COURT PROCEDURAL LOCAL TRIAL RULES

LOCAL RULE 12: Appearance (Entrance)

Appearance of counsel in all cases shall be made without qualification and in writing in the form designated by Indiana Rules of Civil Procedure or the Indiana Trial Rules of Criminal Procedure. When entering a case, an attorney or law firm shall file a notice of appearance with the Clerk of the Court. In addition to the firm name, address, and telephone number, said appearance shall include the individual name and attorney number of the lawyer who is to be identified on the CCS as principal counsel for purposes of notice and other communication. Said appearance shall also contain the name, address, date of birth, and social security number of the defendant.

A. Counsel Familiar with Rules: Upon entering an appearance, the attorney must become familiar with the local rules of the Court.

B. Waiver of Initial Hearing: (Note: Defendant **MUST** appear in person if the charges involve an alleged victim and/or damage to the property of another.) Defendant may waive an initial hearing for one or more **misdemeanors** only if: (i.) Defendant is represented by counsel; (ii) Defendant is not incarcerated; and (iii.) Defendant and counsel comply with this rule. When entering an appearance on behalf of a defendant for whom counsel will appear at arraignment without the defendant present, said appearance must be accompanied by a Written Acknowledgment of Rights properly executed by the defendant. If misdemeanor charges have been filed with the clerk, prior to the scheduled initial hearing counsel for the defendant **must**:

1. File an Appearance; and
2. File a Written Advisement of Rights and Acknowledgment of Rights executed by Defendant; which form is approved by the Court and available in the Office of the Clerk.

C. Pro Se Appearance: A defendant who desires to legally represent himself/herself at trial must direct such request to the Court, in clear and unequivocal terms, at least three (3) working days before the date of trial. Otherwise, the request may be denied or a public defender may be appointed to assist at the time of trial.

LOCAL RULE 13 Appearance (Withdrawal)

Attorney withdrawals shall be made by permission of the Court only, and the written motion of the moving party shall show notification to the client and all parties.

All withdrawals of appearance shall be in writing and by leave of the Court. Permission to withdraw shall be given only (i.) after the withdrawing attorney has given his/her client ten (10) calendar days written notice of his/her intention to withdraw and a copy of same filed with the Court or (ii.) upon simultaneous entry of appearance by other counsel for said client.

In no event will the Court grant a request for withdrawal of appearance in criminal cases unless the same has been filed with the Court at least fourteen (14) calendar days prior to trial date; except for good cause.

In criminal cases, motions for withdrawal shall be governed by the applicable criminal statutes and rules of Court. No attorney will be granted leave to withdraw from a case wherein a jury trial has been requested.

In civil cases, all motions for withdrawal of appearance shall be in writing and by leave of

the Court. Motion for withdrawal **will not be granted** when the request is made less than three (3) working days before trial except upon a showing of necessity.

LOCAL RULE 14: Sentence - Guilty Plea - Criminal Cases

The Court will sentence on a guilty plea only after a record check has been conducted.

LOCAL RULE 15: Preparation of Pleadings, Motions, and Other Papers

All pleadings, motions, and other papers shall be prepared in accordance with the provisions of the Indiana Trial Rules of Procedure and the Indiana Criminal Rules of Trial Procedure. For the purpose of uniformity and convenience, the following requirements also shall be observed:

A. Production: Pleadings, motions, and other papers may be printed or typewritten on 8½ x 11, white, opaque paper of at least sixteen (16) pound weight. If typewritten, the lines shall be double spaced (except for quotations which shall be indented and single spaced). Script type shall not be used.

B. Fastenings: Typewritten pages shall have no covers or backs and shall be fastened at the top left corner and at no other place.

C. Signatures: Neither typewritten signatures nor facsimile signatures shall be accepted on original documents. Facsimile signatures are permitted on copies. All pleadings shall contain the written signature of the individual attorney, his/her printed signature, the name of the firm if a member of a firm, his/her address, his/her telephone number, his/her attorney number, and a designation as to the party for whom he/she is appearing.

It is recommended that attorneys familiarize themselves with the Indiana Trial Rules of Procedure and the Indiana Criminal Rules of Trial Procedure relating to the effect of an attorney's signature on a pleading.

D. Use of Forms Discouraged: Pleadings and proposed orders shall be typewritten, dignified, and appropriate to the cause. Mimeographed, photocopied, or printed documents will be accepted for filing only if legible, clearly understandable, and void of strikeouts and erasures. The Judge's name shall be typed under the signature line of proposed orders, and the name of the attorney preparing the documents shall appear thereon.

E. Standardized Forms: In an effort to expedite the daily court session, the Court has approved certain standardized forms, i.e. Appearance, Plea Agreement, Minute Sheet, Title 12

Deferral, et al. These forms are available from Court Administration and the Clerk. The Court revises the forms on a continual basis; therefore, care should be taken to ensure the current form is used. Copies of the Court's Bond Schedule and Fine and Fee Schedule are also available from the Court and the Clerk.

F. Abbreviated Caption: The second and subsequent pages of all pleadings and proposed orders shall contain an abbreviated caption including the complete case number.

G. Two-sided Pleadings: Two-sided pleadings, motions, orders, or decrees **will not be accepted**.

H. Timely Filing of Proposed Orders: A proposed order shall not be filed until such time as the Court may legally act thereon. The Clerk of the Court will not hold a proposed order in the court file for later use.

I. Facsimile Filings: An original action may **NOT** be initiated by **FAX**. The Clerk will accept subsequent pleadings, not exceeding ten (10) pages (including a cover page), during regular business hours and shall promptly file stamp, docket, and file such documents in the appropriate flat file. The Clerk may assess a reasonable fee for accepting and processing fax filings.

Upon receipt of the FAX, the Court shall show the pleading filed. The original pleadings and sufficient copies to effect distribution shall be mailed to the Court. The original pleadings shall include a cover sheet or letter advising the Court that the accompanying documents are the originals of pleadings previously filed with the Court by FAX transmission.

J. Copy Requirements: Parties shall provide the Court with a sufficient number of pleadings and proposed orders. Failure to provide sufficient copies will result in a CCS entry being made showing insufficient copies of pleadings filed with no action taken nor distribution made.

K. Distribution Lists: All documents for which distribution is requested shall include a distribution list at the end of the document. Distribution shall **NOT** be made to parties **NOT** included on the list.

LOCAL RULE 16: Interrogatories

Interrogatories shall be limited to a total of fifty (50), including subparts, shall be solely for the purposes of discovery, and shall not be used as a substitute for taking a deposition.

For good cause shown, additional interrogatories may be permitted.

LOCAL RULE 17: Motions

A. Notice: When a motion requires notice, notice shall be given in accordance with the Indiana Trial Rules. Prior to the first trial setting, motions may be filed at any time. Due to the congested schedule of the Court, after the first trial setting, motions must be filed no less than thirty (30) days prior to the trial setting and will be heard prior to trial. If the case has heretofore been set for trial, such motion shall be heard immediately before the trial.

B. Motion to Dismiss: A Motion to Dismiss shall be accompanied by a brief and proof of service upon opposing counsel. Motions to Dismiss, if founded upon facts not admitted or not apparent on the face of the pleadings, must be accompanied by affidavits in support of the motion, and a failure to file briefs with said motion to dismiss will result in the motion being overruled summarily. [See Rule 20]

LOCAL RULE 18: *Pro Se* Litigants

No pleadings nor motions shall be accepted for filing from a *pro se* litigant unless the litigant's current address and phone number appear on the pleading. All notices and responses may be served on said *pro se* litigant at the current address listed in the Court files.

LOCAL RULE 19: Continuances

Misdemeanors: If a party desires to continue a setting in a misdemeanor case, trial, or otherwise, the party shall file a verified motion stating in detail the reasons why the setting needs to be continued. The motion shall also include the type of hearing, opposing counsel's position, and suggested reschedule dates for the Court. Unless time has been modified by the presiding Judge, continuances in misdemeanor matters shall be filed at least five (5) working days prior to the setting to be continued. If the continuance is requested due to conflicts on counsel's trial calendar, counsel shall set forth the date the order was issued in the court which set the conflicting hearing. A written order with sufficient copies for all parties shall accompany the motion. Until such motion is granted by the Court, it shall be deemed denied.

Infractions/Ordinance Violations: If a party desires to continue a setting in a case involving **only** infractions and/or ordinance violations, the party shall file written motion stating in detail the reasons why the setting needs to be continued. Such motion shall be filed at least ten (10) days

(excluding Saturdays, Sundays, and court holidays) prior to the setting the party desires the Court to continue.

In addition to the foregoing, a continuance in any matter before the Anderson City Court shall require:

A. Approval: No case shall be continued nor removed from the trial calendar without approval of the Court. A motion for continuance will be granted one (1) time to each party, upon request, without a showing of cause.

B. Requests in Writing: Unless made in open court, all second or subsequent motions for continuance shall be in writing and shall include the following information as provided by Indiana Trial Rules of Civil Procedure and the Indiana Rules of Criminal Procedure:

1. The date and time of the hearing or trial for which a continuance is being sought;
2. The date and time opposing counsel (or *pro se* defendant) was advised that a continuance would be requested;
3. Whether opposing counsel (or party) agrees with or objects to said request and, if by agreement, both parties shall sign said motion;
4. The reason a continuance is necessary and an estimate of the amount of time needed to elapse before the matter can be rescheduled;
5. A good-faith estimate of the time needed for such hearing or trial rescheduled;
6. If the matter can be reset by agreement of the parties, a proposed date and time available on the Court's calendar;
7. If due to conflicts on counsel's trial calendar: the conflicting case, case number, court, current status of the conflicting case, and the date an order was issued in the other court setting the conflicting hearing; and
8. Certification of notice to all parties, counsel, and witnesses.

C. Notification to Parties: The party seeking a continuance shall be required to notify all opposing parties and all witnesses involved in the case. It is the duty of the party seeking the continuance to confirm that all witnesses, as shown on the information and probable cause, have been properly notified. Failure on the part of the party seeking the continuance to notify all parties and witnesses will result in said moving party being required to pay witness fees and mileage. Failure to pay witnesses fees and mileage, when a witness has not been notified, will result in a

contempt citation being issued against the party seeking the continuance or a warrant being issued for the defendant.

Note: The Clerk should be notified of any change of address of any party or witness to the cause of action. **A check of the Clerk's electronic system records may reveal a change of address not indicated in the information.**

D. Notification to Client: Unless otherwise indicated in the motion, signature by an attorney on the request for continuance is certification by that attorney that his/her client has been notified of the request and of the reason for which the continuance is sought. If the client was not notified, the attorney shall state the specific reason(s) notice could not be given and that the client will not be prejudiced by the continuance.

E. Time Limits: No motions for continuance will be considered unless filed at least five (5) days before a criminal bench trial or hearing, unless good cause is shown, and at least ten (10) days before a jury trial, unless good cause is shown.

[See Rule 7: Costs]

F. Proposed Order: All motions for continuance shall be accompanied by a proposed order containing a space for the Court to set a new date for the hearing or trial.

G. Accompanied by Counsel Appearance: When an attorney enters an appearance, it is the attorney's responsibility to review the file and become aware of all previously scheduled hearing dates. Entry of an appearance just prior to a hearing will not necessarily constitute a reason for a continuance.

LOCAL RULE 20: Motion within Five (5) Days of Trial

A Copy of any pleading or motion filed less than five (5) days before a scheduled hearing shall be served personally upon the Judge.

[See Local Rule 15: Continuances]

LOCAL RULE 21: Chronological Case Summary/Docket Entries

There shall be a mail slot for each attorney located in an area proximate to the Court Offices.

Copies of CCS/docket sheets deposited in the respective mail slots of attorneys shall be considered notice, and the service document shall indicate that service was so effected.

The prosecutor may be served likewise in the Court Offices utilizing the Prosecutor's slot

and/or other area within the court confines (and as designated by the Court) for notice of service to the Prosecutor.

LOCAL RULE 22: Discovery

At initial hearing, the Court will automatically order the State to disclose and furnish all relevant items and information under this rule to Defendant(s) within twenty (20) days from the date of the initial hearing, subject to constitutional limitations and protective orders. The defendant(s) shall provide the State with discovery within forty-five (45) days from the initial hearing. **No written motion is required, except:**

1. To compel compliance under this rule;
2. For additional discovery not covered under this rule;
3. For protective order; and/or
4. For an extension of time.

All discovery shall be completed by the omnibus date unless extended for good cause shown. Although each side has a right to full discovery under this rule, each side has a corresponding duty to seek out the discovery, and failure to do so may result in the waiver of this right.

A. State Disclosure: The State shall disclose to the defense the following materials and information within its possession and/or control:

1. The names and addresses of persons the State intends to call as witnesses, with their relevant written or recorded statement. The State may refrain from providing the witness' address under this rule if the State, in good faith, believes the disclosure of the witness' address may jeopardize the safety of the witness and the witness' immediate family. If the State does not disclose the witness' address for the reasons stated under this rule, the State then shall make the witness available for deposition or interview by defense counsel upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve the dispute before seeking intervention from the Court. The party seeking disclosure or a protective order under this rule shall include, in the his/her motion or request, a statement showing that the attorney making the motion or request has made a reasonable effort to reach agreement with opposing counsel concerning the matter set forth in the motion or request. In addition, the statement shall recite the date, time, and place of this effort to reach agreement, whether in person or by telephone, and the names of all parties and attorneys participating therein. If any attorney for any party advises the Court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the Court may take such action as is appropriate. The Court may deny a discovery motion filed by a party who has failed to comply with the requirements of this subsection;
2. Any written, oral, or recorded statements made by the accused or by a co-defendant,

a list of witnesses to the making, and acknowledgment of such statements;

3. Any reports or statement of experts made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons;
4. Any books, papers, documents, photographs, or tangible objects that the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused; and
5. Any record or prior criminal convictions that may be used for impeachment of the persons the State intends to call as witnesses at the hearing or trial.

The State shall disclose to defense counsel any material or information within its possession or control that tends to negate the guilt of the accused as to the offense charged or would tend to reduce the punishment therefore.

The State may perform these obligations in any manner mutually agreeable to the prosecutor and defense counsel.

B. Affidavits of Probable Cause, Police Initial Case Reports, and Police Supplemental Case Reports: An attorney seeking discovery when said documents are in the possession of the Court shall pay the cost for copies, as prescribed by law, to the Clerk for the copying of any information in the Court's files. This **does not** include the copying of the information or probable cause, which is required to be furnished to the defendant without cost. It is the duty of defense counsel to request said documents as the same will not be provided automatically to counsel by the Clerk of the Court.

C. Defendant Disclosure: Defense shall furnish the State with the following material and information within his/her possession or control:

1. Any defense that he/she intends to make at hearing or trial;
2. The names and last known addresses of persons the defense intends to call as witnesses, with their relevant written or recorded statement and any record of prior criminal convictions known to defense. The defense may refrain from providing a witness' address under this rule if the defense, in good faith, believes the disclosure of the witness' address may jeopardize the safety of the witness and the witness' immediate family. If the defense does not disclose the witness' address for the reason stated under this rule, then the defense shall make the witness available for deposition or interview by counsel for the State upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve the dispute before seeking

intervention from the Court. The party seeking disclosure or a protective order under this rule shall include, in his/her motion or request, a statement showing that the attorney making the motion or request has made a reasonable effort to reach agreement with opposing counsel concerning the matter set forth in the motion or request. In addition, the statement shall recite the date, time, and place of this effort to reach agreement, whether in person or by telephone, and the names of all parties and attorneys participating therein. If any attorney for any party advises the Court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the Court may take such action as is appropriate. The Court may deny a discovery motion filed by a party who has failed to comply with the requirements of this subsection;

3. Any books, papers, documents, photographs, or tangible objects the defendant's attorney intends to use as evidence; and
4. Medical, scientific, or expert witness evaluations, statement, reports, or testimony that may be used at the hearing or trial.

After the formal charge has been filled, upon written motion by the State, the Court may
require the accused, among other things, to:

1. Appear in a line-up;
2. Speak for identification by witnesses to an offense;
3. Be fingerprinted;
4. Pose for photographs not involving re-enactment of a scene;
5. Try on articles of clothing;
6. Allow the taking of specimens of material from under his/her fingernails;
7. Allow the taking of samples of his/her blood, hair, and other materials of his/her body that involve no unreasonable intrusion;
8. Provide a sample of his/her handwriting; and/or
9. Submit to a reasonable physical or medical inspection of his/her body.

Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the State to the accused and his/her counsel (who shall have the right to be present). Provision may be made for appearance for such purposes in an order admitting the accused to bail or providing for his/her release.

D. Additions, Limitations, and Protective Order:

1. Discretionary Disclosure: Upon a showing of materiality to the preparation of the defense, and if the request is reasonable, the Court, in its discretion, may require disclosure to defense counsel of relevant material and information not covered by this rule.
2. Denial of Disclosure: The Court may deny disclosure authorized by this rule if it finds that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure to counsel.
3. Matters not Subject to Disclosure:
 - (a) Work Product: Disclosure hereunder shall not be required of legal research or records, correspondence, report or memoranda to the extent that they contain the opinions, theories, or conclusions of the State or member of its legal investigative staffs or of defense counsel or his/her staff.
 - (b) Informants: Disclosure of an informant's identity shall not be required where there is a paramount interest in non-disclosure, and a failure to disclose will not infringe the constitutional rights of the accused. Disclosure shall not be denied hereunder of the identity of witnesses to be produced at a hearing or trial.
 - (c) Other: Any matters protected by law.
4. Either side may apply for a protective order for non-disclosure of requested discovery.

E. Objections: Objections to this rule must be filed within five (5) days following arraignment.

F. Continuing Discovery and Sanctions: Discovery is a continuing order through trial. No written motion is required except to compel discovery for a protective order or for an extension of time. Further, this rule will constitute the Court's response to any general discovery motion except in response to a Motion to Compel which sets out, with particularity, the information or matter to be discovered and the efforts which have been made to obtain the discovery or to negotiate a disputed matter. Failure of either side to comply with this Order may result in exclusion of evidence at trial or other appropriate sanctions; however, discovery violations or disputes not raised no sooner than five (5) working days prior to hearing will be waived.

LOCAL RULE 23: *Ex Parte* Matters

All motions for which an *ex parte* order is requested or anticipated shall be filed with an appropriate proposed order for signature by the Court. No *ex parte* motion shall be considered unless the motion is verified by the petitioner. Unless waived by the Court, there shall be a recorded evidentiary hearing showing corroboration of the motion's allegations.

An *ex parte* order shall **not be signed** unless opposing counsel (or the opposing party or parties) has been notified or an affidavit has been filed from petitioner's attorney which indicates attempts to notify opposing counsel (or opposing party/parties/prosecutor).

This rule shall **not be triggered** by *ex parte* matters which are merely procedural (e.g. compelling discovery, extensions of time, orders to appear).

LOCAL RULE 24: Setting Cases for Trial

All cases shall be set for trial at the time of arraignment. All motions shall be filed no less than thirty (30) days prior to the first trial setting. In the event an attorney calls in an appearance, that case shall be set for trial forthwith, and it is the duty of said attorney to inquire of the Clerk the Court's next trial date.

The calendar of cases set for trial will be prepared under the direction of the Court and will note all cases set down for trial. All trial settings shall be made by chronological case summary entry. If counsel be present in person, notification will be considered as having been done in open court; otherwise, notification will be by delivery of a copy of the docket sheet in the mail slot of said attorney.

Cases shall be set for trial at the convenience of the Court and taking into consideration the calendars of the State and defense counsel. In the event the State and defense counsel are unable to agree upon a trial setting, a Motion for Trial Setting may be filed with the Court; said motion setting forth:

1. A statement indicating whether the matter is to be tried by jury or the Court;
2. A statement indicating the estimated time required for trial; and
3. A statement indicating efforts to set the cause by agreement have been unsuccessful.

[See Rule 13]

LOCAL RULE 25: Exhibits

A. Custody: After being marked for identification - models, diagrams, documents, and materials offered or admitted in evidence as exhibits in any cause pending or tried before the Court or Jury shall be placed in the custody of the court reporter unless otherwise ordered by the Court.

B. Removal: All models, diagrams, documents, or materials placed in the custody of the court reporter as Exhibits shall be taken away by the party offering same in evidence, except as otherwise ordered by the Court, within four (4) months after the case is decided unless appeal is taken. At the time of removal, a detailed receipt shall be given to the Court Reporter and filed with the case.

C. Trial de Novo: In the event of *trial de novo*, said exhibits shall be returned to the entering party from whom a detailed receipt for said exhibits shall be provided to the Court. If *trial de novo* is taken, the original exhibits shall be returned to the party who submitted same.

LOCAL RULE 26: Attorney on Bonds

Attorneys will not be accepted as sureties upon bonds required to be filed in this Court.

LOCAL RULE 27: Duties of Attorneys

A. Attorneys to Prepare Documents Requiring Court's Signature: It shall be the duty of attorneys to prepare proposed decrees, judgments, findings of fact and conclusions of law, and such other orders as may be required by this Court. This will also include any pre-trial order or special findings of fact and conclusions of law.

B. Obligation to Keep Themselves Informed: Attorneys for any parties to a suit should keep themselves informed of all steps taken in all matters pending before this Court, are bound by the Court's action, and are required to check CCS entries.

LOCAL RULE 28: Case Numbering

All cases filed in the Anderson City Court shall be numbered as required by the Indiana Trial Rules.

[See Rule 29]

LOCAL RULE 29: Reduction of Charges

Reduction of charges shall be prepared by the prosecutor and filed prior to any plea agreement being submitted to the Court. The Clerk shall designate the charge as having been reduced by assigning a case number carrying the letter “R”, i.e. 48H02-0301-IF-0000**R**; said designation enabling the Judge and Court to show that the same is a reduced charge.

[See Rule 28]

LOCAL RULE 30: Court General Provisions

A. Hours of the Court: Court sessions of the Anderson City Court shall be as follows:

<u>Day</u>	<u>Session Commencement</u>	<u>Type of Case*</u>
Monday	1:30 p.m.	Arraignments, Pleas
Tuesday	9:00 a.m. 10:00 a.m.	Arraignments, Pleas, Trials Jury Trials (No other trials will be held when a jury trial has been set; only arraignments will be conducted prior to commencement of the jury trial.)
Wednesday	9:00 a.m.	Arraignments, Pleas, Trials
Thursday	9:30 a.m. 10:30 a.m. 1:30 p.m.	Arraignments and Scheduled Bench Trials Scheduled Bench Trials Traffic Arraignments
Friday	9:00 a.m.	Arraignments, Pleas, Trials, Check Deceptions, Probation Violations
* Guideline only. Deviation from this schedule at the discretion of the Court.		

Recess may or may not be taken contingent upon the number and length of cases set for each day.

The Office of the Clerk will be open from 8:00 a.m. to 4:00 p.m. The cashier's window will be open from 8:00 a.m. to 3:45 p.m.

B. Courtroom and Appurtenances: No person shall enter or remain in the court offices, including but not limited to: Courtroom, Judge's chambers, court administration, jury room, docketing/reporter's room, filing room, probation offices, areas designated for use by the prosecutor and defense counsel, nor restrooms adjacent to the court or used in connection therewith at any time except while same may be open for the use of the Court or jury and its or their attendants. This rule

shall not apply to the judges, clerks, bailiff, reporter, or jurors who may be authorized by the judge or required to be there in the performance of their duties, nor to the custodian and the janitors engaged in the care and upkeep of the Court's quarters.

C. Original Papers Not to be Taken from the Court Files: None of the records or original pleadings shall be taken from the files at any time except for the use by the Court. No copy of papers shall be taken from the files except upon the filing of an Appearance and/or Motion for Discovery; no original papers shall be taken from the Anderson City Court facility except by the regular judge or special judge. The Clerk shall note the file is in Judge's possession.

Copies of all documents shall be requested of the Clerk of the Court who shall produce the same for the parties. Any person violating the foregoing provision or taking or permitting such record or original document, paper, or other pleadings to be taken from the files, or any person taking such original information, complaint, or other pleadings from the files without the express permission of the Court shall be deemed in contempt of court.

D. Copies of Information: Copies of information and probable cause, if not furnished to Defendant, will be furnished by the Clerk upon request. Request shall be made to the Clerk of the Court for copies as required by the Indiana Rules of Civil Procedure and the Indiana Trial Rules of Criminal Procedure.

E. Duplication of Pleadings and Exhibits: Upon application of any person, the Clerk shall make copies of any pleadings or order in the custody of the Clerk at the expense of the person requesting same. The Clerk shall **not** furnish copies of any exhibit offered or admitted in evidence which has been ordered impounded by the Court except to a party to the action or his/her attorney.

F. Clerk to Produce Papers: It shall be the duty of the Clerk (or the Clerk's deputies whenever requested) to produce in open court as evidence any book or books or any other paper or papers in the possession of the Clerk, without subpoena, and if the Clerk or deputy be sworn and examined, no witness fee for such attendance shall be taxed.

G. Costs: If a party has requested copies of any papers in the possession of the Clerk, the Clerk shall charge for each copy in the amount as prescribed by law or One and No/100 Dollar (\$1.00) per page, whichever is greater.

H. Request for Record Search: Any and all requests for record search shall be made by submitting the Request for Record Search from which follows immediately (or as may be amended) hereafter.



Anderson City Court
P.O. Box 2100
Anderson, Indiana 46018-2100
Telephone 765.648.6078
Facsimile 765.648.5910

REQUEST FOR RECORD SEARCH

You must provide the Court with Defendant's name, date of birth, and social security number (or court cause number) in order to acquire information. There is a \$1.00 per page fee for all information. If you are making the request by mail, you may call the court clerk to ascertain the number of pages which will be forwarded to you. Payment (by cashier's check or money order) must accompany your request.

This request is made by: Please Print		Date
Name		Address
Telephone	Fax	Relationship to Defendant

Defendant Information:

Name	Date of Birth
Alias 1	Social Security Number
Alias 2	Telephone No.
Alias 3	Driver's License Number
Current Address	
Address 2	
Address 3	
Cause No.	Cause No.
Cause No.	Cause No.

I, the undersigned, hereby certify that the foregoing information is true and complete to the best of my knowledge. Said information has been submitted for the purposes of checking the court records for any possible charges, warrants, etc. which may appear in the Defendant's name.

Signature

To be completed by Court Deputy:

- ☐ No record was found under the name, social security number, etc. provided
- ☐ _____ chronological case summary sheets covering _____ cases were found.
- ☐ Please remit the sum of \$_____ (in the form of a cashier's check or money order). Documents will be mailed.
- ☐ Other: _____

Court Deputy Initials _____ ACC71.wpd

LOCAL RULE 31: Pre-Trial Conference

A. Attorney Conference: The parties are urged to meet for an attorney conference on matters scheduled for a bench trial; at which they will determine or simplify the issues or other matters which are normally considered at a pre-trial conference. Due to the fact that the State does not maintain a separate file in the Office of the Prosecutor, defense counsel should arrange to meet with the State at such times as the Prosecutor/Deputy Prosecutor is available at Anderson City Court; generally during regular court sessions. Attorney conference should be conducted on or before the omnibus date. In order to expedite the Court's calendar, the conference will be in lieu of a pre-trial conference.

B. Proposed Pre-Trial Order: Counsel for the state/plaintiff and defendant shall have an attorney conference as quickly as possible after said case has been set for trial. In the event the parties cannot agree, or are unable to arrive at an agreement on any pre-trial order, each attorney may submit to the Court, at the time of the pre-trial conference, a proposed pre-trial order.

LOCAL RULE 32: Jurisdiction of the Court

Anderson City Court has concurrent jurisdiction with the Madison County Circuit Court and Unified Courts of all misdemeanors, traffic cases, ordinance violations, and infractions. Anderson City Court has civil jurisdiction of Five Hundred and No/100 Dollars (\$500.00).

LOCAL RULE 33: When Another Judge Presides

Whenever a pro tem or other judge presides in the Anderson City Court, and the regular judge is absent or cannot for any reason hear any case pending in such court, said pro tem or special judge has jurisdiction over all cases set for that day; however, no motions to modify the regular judge's prior orders or findings may be filed and come before the pro tem or special judge and ruled upon without proper hearing, answer by the prosecutor, and the proper time passing for answer.

An attorney who files any pleading in an attempt to change findings of fact and conclusions of law, prior filings, and/or prior orders of the court on the same day a pro tem or special judge presides shall be deemed in contempt of court and in violation of these rules.

LOCAL RULE 34: Change of Venue

Changes of venue from the Judge are governed by the Indiana Trial Rules of Procedure and Criminal Trial Rules. This Court will adhere strictly to those rules which require a showing of prejudice. Pursuant to statute, there is no change of venue from the court in the Anderson City Court.

LOCAL RULE 35: Special Judges

After a special judge is selected, the caption of all pleadings filed therein shall designate:

Before Special Judge [name]

A copy of each pleading or each paper filed with the Court after a special judge has qualified shall be mailed or delivered by counsel to opposing counsel and to the office of that special judge with service to that special judge indicated on the certificate of service.

LOCAL RULE 36: Bail

Bail in criminal cases shall be set according to the Anderson City Court Bond Schedule. The Clerk of the Court will provide same upon request.

All persons arrested during the hours that the Court is not in session may post bail according to the bond schedule adopted by this Court unless specified otherwise. If Defendant is determined to be bondable by the Court, bail shall be set by the Court on all parties appearing before the Court.

LOCAL RULE 37: Appeal/Trial De Novo

An appeal/*trial de novo* shall be taken within fifteen (15) days, pursuant to Indiana *Trial De Novo* Rules Following Judgment or Trial in a City or Town Court, Rules 1, 2, or 3.

LOCAL RULE 38: Instruction from the Clerk

In the event the Clerk receives correspondence as to fines, costs, or other items to be filed, and said documents are not in the proper form, the Clerk shall forward to the corresponding party written notification of the error, omission, and/or other things to be done for consummation of said filing or setting forth those items which need to be done by the party sending information to the Clerk. A copy of said notice immediately following this rule is marked Exhibit "A".

STATE OF INDIANA

SS:

COUNTY OF MADISON

File Stamp

STATE OF INDIANA, Plaintiff

IN THE ANDERSON CITY COURT

VS.

2004 TERM

~, Defendant

CASE NO. 48HO2--

**Return of Pleading/Documents/Etc.
(Pursuant to Local Trial Rules)**

1. Enclosed please find your:

- ☐ Correspondence to the Clerk/Court
- ☐ Request for Documentation
- ☐ Petition for Post-Conviction Relief
- ☐ Money Order
- ☐ Other: ~

2. The same has been returned to you for the following reasons:

- ☐ Written appearance by an attorney must be submitted to the Court. Upon receipt of same, the Clerk of the Court will provide copies of the Affidavit and Probable Cause only.
- ☐ All other documents in the Court files can be provided only after proper request/motion for discovery has been filed. There is a \$1.00 per page fee for such documents, and said fee is payable in advance. The total number of document pages in the hereinabove captioned cause of action is ~.
- ☐ PCR is not an applicable remedy.
- ☐ In conjunction with your motion/petition, a proposed order must be submitted to the Court.
- ☐ Money order is not in the proper amount; the proper amount due being in the sum of \$~.
- ☐ Fine and court costs have not been paid.
- ☐ Fifty percent of the estimated transcript preparation costs must be paid in advance. The anticipated cost in this cause is \$~. Unless proper petitioner is filed as required by Indiana Trial Rules.
- ☐ Other: ~

Everything submitted by you has been returned herein. Please resubmit your request in its entirety pursuant to the above instructions. A copy of this form has been retained in the file bearing the above captioned cause number.

Court Deputy Initials _____

NOTE: All documents submitted must comply with the provisions of the Indiana Trial Rules. The clerks are not attorneys and are therefore prohibited by law to assist in the preparation of any documents. If you need assistance, it is recommended that you consult an attorney.

ACC69
Rev. 01/31/01 jt

LOCAL RULE 39: Multiple Cases

In the event a defendant has charges pending in the Anderson City Court and he/she is subsequently cited on additional (related or unrelated) charges, all such matter shall be heard at the same trial setting date and time.

LOCAL RULE 40: Fee for Late Payment

Pursuant to Public Law 289, Acts of 2001, which amended Indiana Codes 33-19-5-1, 33-19-5-2, and 33-19-7-4, effective July 1, 2001, allowing city and town courts to adopt a local rule to impose a late payment fee of Twenty-five and No/100 Dollars (\$25.00) on defendants who fail to timely pay court costs, fees, fines, or civil penalties in each criminal, infraction, or ordinance violation case, the Court adopts the following rule:

At the time of sentencing fines, fees, costs, and/or user's fees are due and payable. In the event Defendant is unable to pay same, he/she may request an extension for time to pay in open court during the time of the sentencing proceeding. Thereupon, the Court may afford Defendant up to thirty (30) days time to pay the amounts owed. If at the end of the thirty (30) day extension period Defendant has failed to pay all amounts due and owing, an additional Twenty-five and No/100 Dollar (\$25.00) late fee may be assessed.

Late fees will be collected by the Clerk and remitted monthly to the Office of the Anderson City Comptroller for deposit in the city general fund, as required by law, or as may be as amended.

LOCAL RULE 41: Court Closings

With the exception of scheduled holidays and elections days during which the City Building is closed, all regular sessions of the Anderson City Court will convene unless circumstances or emergency necessitate closing. In that event, judicial order and/or notice will issue.

Memo

To: First Court Deputies - Court Reporter - Administrative Assistants

From: Court Administration

Re: "Special Judge" when Pro Tem on bench

Date: November 27, 2000

Pursuant to Judge Phillippe's instructions, a pro tem judge may **never** appoint a special judge; however, in the event there is a **conflict which prohibits** the sitting pro tem from hearing a matter, the following procedure shall apply:

A. The case shall be rescheduled to be heard by the regular judge of the court; or

B. In limited situations when the matter cannot be rescheduled (as in the case of the necessity to arraign a prisoner or a individual is presented on a warrant), a second pro tem shall be asked to sit the bench for the purposes of arraigning the defendant. (There are generally sufficient attorney's in attendance at any court session to enable you to find one who can sit the bench for a few minutes.) The scheduled pro tem will thereafter retake the bench.

Please make sure that you notify me that a pro tem other than the one scheduled as taken the bench.

If you have any questions about this procedure, please ask me.

[s]
Jana

[Initialed] [drp] Judge Donald R. Phillippe

Please initial, date, and return a copy to me. [Initials] _____ [Date] _____

MEMO

To: All Attorneys

From: Judge Donald R. Phillippe

Re: "H.I."

Date: November 30, 2000

For those of you who may have missed it, please note the following commentary pertaining to Indiana Trial Rules:

Use of "H.I.": As a custom, many lawyers and judges have incorporated matters by reference through the use of the dreaded "H.I." The new record keeping system attempts to eliminate this practice where the reference has no purpose. "H.I." is never used in the CCS because the CCS contains descriptive case management information only. **Use of "H.I." in an order should be limited to decisions involving lengthy, technical determinations and, if the terms is used, the reference language must be attached as part of the order and placed in the RJO.**

In place of "H.I.", I would recommend language such as "which petition is in the Court's file and a part of the Court's record" or something similar thereto.

Thank you all for your attention to this matter.

Respectfully,

[s]

Donald R. Phillippe, Judge
Anderson City Court

DRP/jdt

MEMO

To: All Attorneys

From: Judge Donald R. Phillippe

Re: Court Files

Date: March 19, 2001

As you know, the court deputies of the Anderson City Court are authorized to make one (1) copy (free of charge) of the court's case file for the use of counsel for the defendant in any given case. Further, it has been the policy of the Court to allow attorneys to utilize the court's copy of the case file while such attorney is at the court. Those files are to be returned to the hands of court personnel; preferably to the person from whom you received the documents.

It has come to the attention of the Court that at least one (1) court file was placed in the hands of a parent for a defendant; which parent was allegedly instructed by defendant's attorney to return the file to the court deputies. **UNDER NO CIRCUMSTANCES ARE THE FILES TO BE PLACED IN THE HANDS OF DEFENDANTS NOR THEIR PARENTS, SPOUSES, CHILDREN, ETC.**

If this rule is violated, the Court will instruct the court deputies to provide defendants/counsel with one (1) copy of the file (upon request) and thereafter to charge all defendants/attorneys the standard \$1.00 per page fee for copies of a file. Further, no attorney (except public defenders and prosecutors) will be permitted to handle the court files under any circumstances.

[s]
Donald R. Phillippe, Judge
Anderson City Court

MEMO

TO: All Attorneys
From: Anderson City Court
Re: Form Revisions
Date: September 27, 2001

Please be advised that many of the pre-printed forms used in the Anderson City Court have been revised. The forms available to you in the break room are the most recent. If you have forms in your offices, please check to determine that they are the most recent version; specifically regarding PLEA AGREEMENTS, RIGHTS ACKNOWLEDGMENTS, TITLE 12 DEFERRALS, et al.

If a form you need is not available in the break room, please ask Jana to provide you with a master copy.

Thank you!

MEMO

To: All Attorneys

From: Helen Arnold

Re: **Subpoenas Prepared by Counsel**

Date: March 25, 2002

While we are happy to assist in the serving of subpoenas, we are running into some difficulties. When you wish for the Court to cause subpoenas to be delivered please deliver those to us at **least ten (10) working days prior to the trial date.**

When you prepare and deliver the subpoenas yourself, please make sure **the Court receives a copy of same.**

Thanking you for your attention to this matter...

[s]
Helen Arnold, First Court Deputy
Anderson City Court

[Initialed] [drp] Judge Donald R. Phillippe